

REMARKS

Applicant has carefully reviewed the Examiner's November 16, 2004 Official Action and respectfully requests reconsideration based on the above amendments and the following comments.

Claims 1-10 remain in the application for consideration.

The Examiner has rejected claims 1-10 under 35 U.S.C. 103(a) as being unpatentable over Ichinose '618 in view of Mark '178 and further in view of Hamada '160. Applicant respectfully traverses this rejection for the following reasons.

First, Applicant notes that in the October 23, 2003 Advisory Action indicating that our October 3, 2003 request for reconsideration did not place the application in condition for allowance, Examiner William Miller further indicated that;

"Positive recitation of the latch structure and orientation could read over the current art rejection, but it would require further consideration and/or search to determine if allowable subject matter exists."

This statement reflected the result of earlier telephone conferences between the undersigned, the Examiner and his supervisor.

Thereafter, Applicant filed its December 3, 2003 Request for Continued Examination in which Applicant clearly noted that claim 1 was amended to positively claim the latch structure and its orientation as suggested in the October 23, 2003 Advisory Action. The amended language read as follows:

"A latch engaging part which is engageable with a latch on the vehicle door latch device having a recess which is oriented on the latch to engage the front side portion."

Thereafter, the Examiner's February 11, 2004 Office Action neither cited any prior art teaching this feature or made any comments that the latch was not part of the claimed invention as Applicant maintained.

Thereafter, when addressing the Examiner's failure to provide a teaching of this feature (which as noted above was identified as one of the claimed invention's primary features), Applicant's August 11, 2004 response indicated that,

"Even assuming the obviousness of the Examiner's suggested prior art combination (not admitted), there is no teaching whatever in any of the cited prior art that if the first leg of Ichinose was modified to have a large diameter, that the latch of Ichinose would necessarily engage its first leg above the large diameter portion as claimed by Applicant rather than the large diameter portion. Indeed, Mark teaches engagement of the latch to engaging portions 22 rather than a specific part of the first leg as claimed by Applicant so that there is no teaching whatever of where the Ichinose latch would engage its modified legs."

In response to the above, the Examiner addresses this feature in his November 16, 2004 Final Office Action for the first time by indicating in the last paragraph on page 6 of his Action, only that,

"The Applicant is claiming a striker and any recitations in the claims directed to the latch hold little patentable weight because they are not part of the claimed invention."

No prior art is cited as teaching this feature.

Since the above recited language from claim 1 clearly provides for "a latch on the vehicle door latch device", and the vehicle door latch device is positively claimed in the preamble of the claim and a latch is positively claimed as a part of the vehicle door latch device in claim 1, Applicant fails to understand how the Examiner can justify his conclusion.

Notwithstanding, in order to further clarify that the latch is positively claimed, Applicant has amended the preamble to emphasize that the positively claimed vehicle door latch device in the preamble includes a latch. Applicant submits that this amendment does not raise any new issue as the positive claiming of the latch was one of the primary points emphasized by Applicant starting with the suggestion in the October 23, 2003 Advisory Action noted above. Applicant was provided no opportunity in the first Office Action to make such

an amendment if necessary, notwithstanding Applicant's clear intention to positively claim the latch.

Applicant continues to note that this feature is not taught by the combination of prior art cited by the Examiner.

The Examiner further supports his use of the Mark reference in the last paragraph of page 5 by indicating that the first paragraph on page 2 of Mark discloses that its limbs may be parallel to each other and they may be straight. While Applicant agrees that the Mark striker can include these features, it does not support the Examiner's belief that Mark discloses a vehicle door striker similar to that of Ichinose. The only similarity between the structures of Ichinose and Mark is the fact that they are intended to be strikers. Mark is different from the Ichinose striker at least in the following respects, notwithstanding the language from page 2 of Mark:

- (1) The first and second leg parts of Mark are not shown or taught to have the same shape;
- (2) The first and second leg parts of Mark are not shown or taught to be perpendicular to the plane of its metal base;
- (3) The Mark latch engages bolt engaging portion 22 and not either limb 18 or 20; and

- (4) Limbs 18 and 20 of Mark are bent in relation to base 12 and there is nothing whatever in the language on page 2 of Mark which teaches or suggests otherwise. Clearly, the limbs can be parallel and straight, but still engaged at an angle to base 12 as shown in the drawings.

Accordingly, applicant does not agree that the combination of Ichinose and Mark would be obvious to the skilled artisan, especially in light of the indication in the last full paragraph of page 3 of Mark that the different features of Mark are intended to permit the making of strikers of complex shapes. The strikers resulting from the Examiner's suggested combination of references does not result in a "complex shape" similar to that shown in the Mark drawings. Clearly, the thickening of the limbs of Mark and the other features entailed by such thickening is limited to the manufacture of the specially shaped strikers identified in Mark. There is no teaching of combining these features with Ichinose and Hamada other than Applicant's disclosure which becomes apparent when recognizing that the Examiner's cited combination, even if appropriate, still does not teach the claimed relationship of the latch and striker.

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Applicant submits that the invention is new and unobvious and not disclosed by the cited art. Accordingly, Applicant respectfully solicits the Examiner's early review and issuance of this application.

Respectfully submitted,

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